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KOLS.155US

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EXAMINER

RUSTEMEYER, BRETT J

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/511,797	<b>Applicant(s)</b> KOPRA ET AL.	
	<b>Examiner</b> BRETT RUSTEMEYER	<b>Art Unit</b> 2426	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Office action is in response to an AMENDMENT entered April 15<sup>th</sup>, 2009 for the patent application, 10/511,797, filed on April 14<sup>th</sup>, 2003.
2. The Office action of February 18<sup>th</sup>, 2009 is fully incorporated into this Final Office action by reference.

### ***Status of Claims***

3. Claims 1-25 are pending.
4. Claims 26-28 are added.

### ***Claim Objections***

5. Claim 11 is objected to because of the following informalities: It is believed by the Examiner that the limitation of, “by activation of the widget”, was intended to recite “by activation of the at least one widget” for consistency with other amendments present in the claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (*See MPEP Ch. 2141*)

- a. Determining the scope and contents of the prior art;
- b. Ascertaining the differences between the prior art and the claims in issue;
- c. Resolving the level of ordinary skill in the pertinent art; and
- d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

7. Claims 1-4, 6-14, 16-22 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Application Publication Number “2006/0288374 A1” to Ferris et al., hereinafter “Ferris”, in view of United States Patent Publication Number “2004/0014454 A1” to Burgess et al., hereinafter “Burgess”.

\* Examiner's Note (EN): It appears that the combined teaching of Ferris in view of Burgess, as a whole, applies with specific sections identified as follows. 15 ¶ applies.

**Regarding claim 1**, Ferris is directed to the display of advertisements, product and service offers, and other information (collectively, “display data”) provided to a user of a radio receiver for further interaction (*Ferris*, Fig. 3, Abstract). According to one embodiment, broadcasters 402 disseminate content to broadcast receivers 405 in users’ homes 416 (*Ferris*, [0048]). The transmission mechanism may involve terrestrial radio-frequency broadcast, satellite radio-frequency broadcast, wired, or fiber optic cable transmission (*Ferris*, [0048]). “A rolling ‘play list’ is compiled for each broadcast channel, containing the program associated data (PAD) display data records and their respective cue points. This information is fed, whether well or only very shortly in advance of the earliest cue point in the segment of the rolling list passed at that time, to a PAD scheduler 411 at a central processing station 420. Such a list may be

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provided by any combination of the sponsors 401, the broadcasters 402, or by some third party 406 which annotates programmes, either as these programmes are broadcast or ahead of time” (*Ferris*, [0049]).

A matching engine at the central processing station continuously compares input from the various broadcast channels with multimedia samples, and uses a commonly known algorithm to determine when a ‘match’ has occurred (*Ferris*, [0050]). “When the next display message is due to be transmitted, as may be detected at the PAD scheduler 41 using either a polling or, preferably, an interrupt mechanism, it is retrieved from a PAD database 408, given a unique identification number (PADUID), and sent to a transmission gateway 413, which may be physically remote, where it is translated into the correct format to be sent over a radio transmission service 414” (*Ferris*, [0052]). Preferred embodiments include: using the text message transmission protocols of a cellular network of paging transmitters; transmitting data using a radio sub carrier scheme; and utilizing the data transport mechanisms of the Digital Audio Broadcasting (DAB) system for transmitting information to the device (*Ferris*, [0052]-[0055]). The device 417 will display the incoming PAD display data to the user at the appropriate cue point, and may accept interaction from the user on the basis of the information so displayed.

Details of such interaction, where relevant, may be transmitted back central control station 420 together with the unique handset/user id (HUUID) and PADUID of the initial display data (*Ferris*, [0056]) via a Radio Service Provider 415 (which may or may not be the same as provider 414) - (*Ferris*, [0057]). Preferred return channels include: performing encoding and transmission by a two-way paging chipset; making use of bandwidth available within a digital

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cellular telephony system under some protocol (e.g., SMS of a GSM network); and sending signals over an unlicensed radio data network (e.g., metropolitan packet-relay system) - (*Ferris*, [0056]-[0057]). The user may interact with the PAD display data through the receiving apparatus to initiate a purchase sequence by pressing the 'BUY NOW!' button 9 (*Ferris*, FIGS. 1, 2A, 4, [0095]). "If the user opts to buy, then the screen of FIG. 2C is shown, which contains a request to confirm the transaction 114, a selection of credit and/or debit cards 113 to choose from (chosen by pressing one of the side variable function buttons, 15 on FIG. 1), and the option to cancel the transaction 117. Selecting a credit card will bring up a 'successful order' screen, not shown here" (*Ferris*, FIG. 2C, [0096]). As the user's name and address is held in the user database 410, the process of purchasing, or requesting the mail-out information, is greatly simplified (*Ferris*, [0062]).

Therefore, *Ferris* reads on the claimed:

*A method of delivering an object relating to a broadcast media stream to a user terminal of a mobile radio system, the method comprising:*

*broadcasting the media stream (i.e., content) by a broadcast system (Ferris, FIG. 3 - 402, [0048], e.g., broadcasters),*

*associating the object (i.e., advertised product or service) to the media stream in the broadcast system (Ferris, [0049]; EN: The advertised product or service represented by the PAD display data is "associated" to the content through the 'play list'),*

*delivering an object identification of the object and a widget from the broadcast system to at least one user terminal wirelessly (Ferris, FIG. 2A, [0056], [0079], [0093], [0095]; EN: wherein the PAD display data reads on "an object identification", and the displayed text "BUY"*

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of FIG. 2A reads on “*a widget*”. As such, the incoming PAD display data or special control messages provided via Radio Service Provider 414 triggers a display routine for displaying screen 504 containing buy button 105; thereby enabling user to select a corresponding key associated with either buy button 105 or buy button 9 to initiate a purchase. In this sense, the widget is delivered “*wirelessly*”. Furthermore, all components of receiving apparatus 417, in particular the display screen, reads on *at least one user terminal*),

*presenting the object identification and the widget in synchronization with the media stream in the user terminal (Ferris, FIG. 4, [0049], [0093]; EN: The PAD display data and the displayed text “BUY” are displayed or presented at the respective cue point in the broadcast content by the receiving apparatus), and*

*sending, if a user requests the delivery of the object based on the object identification, a transaction signal with the object identification from the user terminal to a database through the mobile radio system by activating (i.e., selecting) the widget (Ferris, FIG. 1, 2A, 3, [0056]-[0057], [0062], [0095]-[0096]; EN: wherein sending is performed through the return channel, a purchase request reads on “*a transaction signal*”, the PADUID, a portion of the PAD display data, is sent in the purchase request, all database components of the Central Processing Station read on “*a database*”, and the Radio Service Provider 415 reads on “*the mobile radio system*”).*

Ferris is silent with respect to:

*sending ... a transaction signal ... from the user terminal to a database of at least one object, and*

*delivering the object of the object identification from the database to the user terminal, which sent the request signal, through the mobile radio system.*

In analogous art related to problems associated with the enablement of a user request for advertised products and services through a radio network, Burgess provides evidence regarding processing and fulfillment of a user's request. In particular, the reference teaches of transmitting a user request message from a cellular tower 14 to a mobile switching center (MSC) 16 (*Burgess*, [0019]). The MSC 16 analyzes the message and transmits the message to the appropriate SCP (Service Control Point) system 20 (*Burgess*, [0019]-[0020]). The SCP may utilize an Advertisement Code Database 24 to associate data codes within the request message with specific product information, such as advertiser provided content (*Burgess*, [0022]). "In the event that the SCP 20 determines that there is product information associated with the data code in the dialed digits string, then the SCP 20 send the product information to the user that dialed the call through the content delivery system (CDS) 25 using a delivery technique indicated by the information in the user account associated with ... the request message" (*Burgess*, [0022]).

According to one embodiment, "the delivery technique may be SMS (Short Message Service), in which case the product information stored in the Advertiser Code Database consists of a text message to be delivered back to the mobile phone on which the original call was place using the SMS protocol. Other examples of delivery techniques that may be used are WAP (Wireless Application Protocol) push, or a MMS (Multi-media Messaging Service) message, or an EMS (Enhanced Messaging Service) message", etc (*Burgess*, [0022]).

Thus, it would have been obvious to one ordinarily skilled in the art, at the time of the invention, to apply to the technique of purchasing and delivering an advertised product or service as disclosed by Burgess to respectively improve the capabilities and necessary components of the Central Processing Station 420, Radio Service Providers 414-415, and receiving apparatus 417 of



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Ferris for the predictable result of providing a means for associating a user request with the requested product or service and delivering the user requested product or service to the user's receiving apparatus.

**Regarding claim 2**, Ferris reads on *the method of claim 1, the method further comprising providing the broadcast system with object identifications of the objects available in a database of an object provider* - (Ferris, FIG. 3, [0048]-[0049]; EN: wherein PAD display data is provided by sponsor 401).

**Regarding claim 3**, Ferris reads on *the method of claim 1, the method further comprising creating the objects and the object identifications in the broadcast system and saving the objects in a database* - (Ferris, FIG. 3, [0052], [0022]; EN: wherein "creating" reads on the disclosed arranging for transmission of information over the service 414, and PAD Database 411 reads on "a database").

**Regarding claim 4**, Ferris reads on *the method of claim 1, the method further comprising delivering the object identification from the broadcast system to at least one user terminal through the mobile radio system* (Ferris, [0049], [0052]-[0056]; EN: wherein the broadcaster provides the 'play list' containing the PAD display data records and their respective cue points to the Central Processing Station).

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**Regarding claim 6**, Ferris reads on *the method of claim 1, the method further comprising sending the transaction signal from the user terminal directly to the database of the object provider through the mobile radio system* (Ferris, [0056]-[0057]).

**Regarding claim 7**, Ferris reads on *the method of claim 1, the method further comprising sending first the transaction signal from the user terminal to a server serving the broadcast system through the mobile radio system, and sending a signal with the object identification from the server to the database of the object provider* (Ferris, FIG. 3, [0056], [0059]-[0060]; EN: wherein the Interaction Processor reads on "*a server*", PADUID is portion of PAD display data which is sent with the signal, either the PAD database 408 or Vendor Database 409 read on "*the database*", and all components of the Central Processing Station, collectively, read on "*the object provider*").

**Regarding claim 8**, Ferris reads on *the method of claim 1, the method further comprising associating the object identification to the media stream such that the object identification is attached to a broadcasting timeline of the media stream, and delivering (i.e., displaying) the object identification in accordance with the broadcasting timeline of the media stream* (Ferris, [0049], [0056]; EN: wherein the PAD display data is "*attached*" to and displayed in accordance with the 'play list')

**Regarding claim 9**, Ferris reads on *the method of claim 1, the method further comprising recording and processing the transfer of each object to the user terminals by means of a*

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*transaction processing device (Ferris, [0060]-[0061]; EN: wherein the interaction processor utilizes the user database 410 to store users' transaction histories and both the PAD database 408 and Vendor Database 409 to process users' requests).*

**Regarding claim 10**, Ferris reads on *the method of claim 1, the method further comprising identifying the format of the object identification and the object by means of the user terminal, the identifying revealing information, including the supporting application needed, additional rights pertaining to the object, forwarding limitations associated with the object, or any combination thereof (Ferris, [0067], [0073]; EN: wherein the either cue point or the legitimacy read on “the format”,).*

**Regarding claim 11**, the combined teaching of Ferris and Burgess, as a whole, read on the respective limitations of claim 1. In addition, Ferris reads on:

*a radio system including at least one base station (Ferris, [0057]; EN: wherein a cellular tower or BTS is inherent of a cellular telephony system operating under the GSM protocol; thereby reading on “at least one base station”) ... the broadcast system having a connection to the radio system (Ferris, FIG. 3, [0049]; EN: Broadcasters 402 are connected to PAD Scheduler 411, both of FIG. 3, for transmitting the ‘play list’.), and*

*the broadcast system being configured to associate at least one object identification to a broadcasting timeline of the broadcast media stream (Ferris, FIG. 3, [0049]; EN: wherein the PAD display data is associated to the ‘play list’).*

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**Regarding claims 12-14, and 16-20**, please refer to the citations and remarks stated by the Examiner in response to claims 2-4, and 6-10, respectively.

**Regarding claim 21**, please refer to the citations and remarks stated by the Examiner in response to claim 1.

**Regarding claims 22, 24, and 25**, please refer to the citations and remarks stated by the Examiner in response to claims 4, 6, and 7, respectively.

**Regarding claims 26-28**, the combined teaching of Ferris and Burgess, as a whole, read on the respective limitations of claim 1.

Ferris reads *wherein the user terminal is configured to receive the widget before or during a piece of media stream* (Ferris, FIG. 4; [0093]: EN The display screen of receiving apparatus 417 previously cited of Ferris with respect to claim 1 may print data representing the displayed text “BUY” at a cue point during a targeted television program. According to a first interpretation, the displayed text “BUY” (i.e., the widget) is “*received*” during a corresponding piece of media stream, accordingly. In a second interpretation, the *corresponding piece of media stream* reads on any program broadcast over the medium/channel pair in which “The Tool Show” is broadcast. Thus, the displayed text “BUY” is printed on the display screen of the receiving apparatus before a subsequent program following “The Tool Show” reading on the “before” scenario).

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8. Claims 5, 15, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris in view of Burgess, further in view of ETS 300 401 – “Radio Broadcasting Systems; Digital Audio Broadcasting (DAB) to Mobile, Portable, and Fixed Receivers, 2<sup>nd</sup> Edition, hereinafter “ETS 300 401”.

EN: It appears that the combined teaching of Ferris in view of Burgess, further in view of ETS 300 401, as a whole, applies with specific sections identified as follows. 15 ¶ applies.

**Regarding claim 5**, Ferris discloses the method of claim 1, the method further comprising delivering the object identification from the broadcast system to at least one user terminal as *an DAB broadcast* (Ferris, [0055]; EN: wherein the Digital Audio Broadcasting (DAB) system is used to transmit information to the device as defined by ETS 300 401 – “Radio Broadcasting Systems; Digital Audio Broadcasting (DAB) to Mobile, Portable, and Fixed Receivers”), but is silent on *an RDS broadcast*. However, the ETS 300 401 discloses data transport mechanisms used in an RDS broadcast (ETS 300 401, May 1997, Second Edition, Page 11, Section 2, [5], Page 18, Section 3.2, Line 39, Page 50, Section 6.3.1; EN: **Country Id** and **EC**}, & Page 100, Section 8.1.4; EN: **PNum**)). Because both Ferris and ETS 300 401 disclose methods for wireless data transmission mechanisms, it have been obvious to one skilled in the art to substitute one method for the other to achieve the predictable result of conforming to the RDS broadcast standard.

**Regarding claims 15 and 23**, please refer to the citations and remarks stated by the Examiner in response to claim 5.

***Response to Arguments***

9. Applicant's amendment and remarks pertaining to the objection of claims 4, 6, 7, 14, 16, 17, 22, 24, and 25 have been fully considered and are persuasive. The objection of claims 4, 6, 7, 14, 16, 17, 22, 24, and 25 is withdrawn.

10. Applicant's amendment and remarks pertaining to the 35 U.S.C. § 112 – Second Paragraph rejection of claims 10 and 20 have been fully considered and are persuasive. The 35 U.S.C. § 112 – Second Paragraph rejection of claims 10 and 20 is withdrawn.

11. Applicant's arguments and remarks documented in Applicant's Response pertaining to the 35 U.S.C. § 103 (a) rejections have been considered but are moot in view of the new ground(s) of rejection.

***Examination Considerations***

12. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure." *In re Morris*, 127 F.3d 1048, 1054-1055, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). "Limitations appearing in the specification but not recited in the claim are not read into the claim." *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969) (MPEP p 2100-8, C 2: L 45-48; p 2100-9, C 1: L 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

13. Examiner's Notes are provided with the cited references to prior art to assist the Applicant(s) to better understand the nature of the prior art, application of such prior art and, as

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appropriate, to further indicate other prior art which may be applied in future Office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art, but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

14. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

15. Examiner's Opinion: ¶ 12-14 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

### ***Conclusion***

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17. Claims 1-28 are rejected.

*Contact*

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brett Rustemeyer whose telephone number is (571) 270-1849. The examiner can normally be reached on Monday - Friday 9:00 a.m.-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BR/

Examiner - Art Unit 2426  
August 24<sup>th</sup>, 2009

/Joseph P. Hirl/

Supervisory Patent Examiner, Art Unit 2426  
August 24<sup>th</sup>, 2009